

Lambert's point of view it was the day on which McGeorge left, and from the point of view of Meikle's witnesses it was the day of Waters's sale. Of course, in a country neighbourhood the sale of a considerable property would impress the people, and all the witnesses who were called knew about Waters's sale, and knew that it was held on a very bad and squally day, and that it was followed by an exceedingly wild and tempestuous night. It was contended that it would be impossible to drive sheep, especially along an unfenced road-line, on such a night, and especially for a sickly lad with a small mob of sheep. Then there was expert testimony called on both sides. I do not propose to bother much with that aspect of the case, but perhaps there has been a sufficient quantity of expert evidence in the various Courts to show your Honours how the matter stands. Then there was the other point, on which very little stress was made in 1887—that is mainly a matter for experts—that it was impossible to drive sheep into a smithy-door as Lambert describes they were driven—through an aperture 18 in. wide. Now, in Judge Ward's report he lays great stress at page 29 on the incredibility and deliberate untruthfulness of the evidence for the defence. It does not appear to have occurred, nor has His Honour any ground whatever for suspecting Lambert on account of the terms of his employment, and if the jury had the matter put before them with as little emphasis—or, in fact, with no reference whatever—as is the case with this report, one is not surprised that they were assisted to come to a wrong conclusion. But His Honour has a good deal to say upon the credibility of the witnesses for the defence. His conclusion is:—

“I have only further to say that, in my opinion, the verdict was fully justified for the evidence for the Crown, and that I have seldom heard harder swearing than that of the witnesses for the prisoner.”

Then in 1895—and it is convenient to refer to this as the second report, and it is contained in the printed page before your Honours—after Lambert's conviction Judge Ward was asked by the Public Petitions Committee of the House, before whom Meikle's petition for redress then was, to say as to how far—and that is substantially the question that is before your Honours now—the conviction would raise any presumption as to Meikle's innocence in the case *Regina v. Meikle* tried in 1887. Judge Ward's conclusion, after summarising the evidence, is this:—

“Had there been no evidence beyond this, I should certainly not have directed the jury to acquit; but the case for the Crown would have been greatly weakened, and probably the able counsel engaged by Meikle would then have secured his acquittal had it not been for the exposure of the gross perjury committed on Meikle's behalf by the witness Templeton, which might have turned the scale the other way.”

Well, I submit, in the first place, your Honours—and it is a formal point—that, excluding Lambert's testimony, there was not even anything to go to the Supreme Court. It would not even have got before the Magistrate's Court. My friend is here representing the Crown and not as a special pleader for an individual, and I do not expect him to dispute that contention. But, of course, it is a formal point, for this reason: that if Meikle has used perjured evidence to secure his acquittal it raises a strong presumption of his guilt. Even supposing a man to be innocent, but that he reckoned the circumstances of his case to be suspicious, and he wanted to make quite sure of his acquittal, nevertheless it would follow that your Honours might say he was not properly found guilty of sheep-stealing but he was undoubtedly guilty of a greater crime—namely, subornation of perjury in 1887 and on every occasion since. My client's object is not to have his verdict quashed on a technical ground but to clear his character, and he is just as much concerned with the reputation of these witnesses who are assailed in this report as he is with his own, because their character reflects on his. Therefore, to acquit him of sheep-stealing and find him guilty of subornation of perjury is not a thing for which he would trouble the country. I will concede to your Honours with perfect frankness that some of Meikle's witnesses made mistakes, and made some serious mistakes. I will concede that Templeton was a month out in one date, and that Harvey was a month out in one date and a day out in another date, and I shall show presently that the error in regard to the day was unfortunately more serious than both the larger errors, because it affected the immediate neighbourhood of the time at which the crime was supposed to have been committed. Then Harvey made other serious mistakes, though mostly of a chronological order. There were other minor discrepancies, some of which I shall indicate later on. As against this I shall submit this: that the inaccuracies were honest, and that they are of such a character as to render the possibility of concoction absolutely unbelievable, because no proved inaccuracy can be proved to have been shared by two witnesses, and that surely is the crucial test of concoction. I shall further submit that these minor discrepancies, or many of them, to which I have referred are also of a nature to negative concoction, and our proof of the honesty of the witnesses, even when any mistake was made. Now, it is fortunate for my client, and makes my task much easier, that Mr. Templeton should have been selected by Judge Ward as the arch-villain of the piece, or, rather, I should say that if the arch-villain was in the dock his understudy was in the witness-box. It is fortunate for me that Mr. Templeton has been selected, in the first place, your Honours, because I think I can satisfy your Honours on the best evidence that Mr. Templeton's error was absolutely innocent, and, secondly, because Mr. Templeton is here, and my friend and your Honours will be able to see him and will be able to test him. Of course, my friend is not here as counsel for an individual. It is clearly part of his duty here to apply every test to the testimony of an alleged perjurer, and I shall certainly not mistake his position if he cross-examines Mr. Templeton with regard to his supposed perjury as though he was appearing for a private individual. I certainly hope he will do it as thoroughly as his great professional skill will enable him to do it. In the original report to the Minister of Justice after Meikle's petition had been sent from the gaol, His Honour writes as follows (fourth paragraph):—

“For the defence, the first witness was one Templeton, who swore to a conversation with Lambert, giving full particulars of time and place; but finding that certain witnesses were prepared to prove an alibi for Lambert, desired Mr. MacGregor, counsel for prisoner, to retract his evidence